

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<div>----- X</div> <div><b>AMERICAN INSURANCE COMPANY</b> <b>a/s/o Mariah Carey, and Sinclair C.S.</b> <b>Beecham</b></div> <div><b>Plaintiffs,</b> <b>against</b></div> <div><b>CORN ASSOCIATES, LLC. THE</b> <b>FRANKLIN TOWER CONDOMINIUM,</b> <b>KATZ METAL FABRICATORS, INC., and</b> <b>SAMCO PLUMBING, INC.,</b> <b>Defendants.</b></div> <div>----- X</div>	<div><b>REQUEST TO ENTER DEFAULT</b> <b>AGAINST CORN ASSOCIATES, LLC</b> <b>PURSUANT TO FEDERAL RULE OF</b> <b>CIVIL PROCEDURE 55(a) AND LOCAL</b> <b>RULE 55.1</b></div> <div><b>Docket No.: 1:07 cv 08604</b></div>
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**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK:**

Pursuant to the Federal Rules of Civil Procedure 55(a) and Federal Local Rule of Civil Procedure 55.1, kindly enter a default against defendant Corn Associates, LLC in the above-entitled action for failure to plead or otherwise defend, as appears from the Affidavit of the undersigned attached hereto.

Dated: June 6, 2008

COZEN O'CONNOR

By: \_\_\_\_\_ s/  
Mark E. Opalisky, Esq.  
COZEN O'CONNOR  
45 Broadway, 16<sup>th</sup> Floor  
New York, New York 10006  
(212) 509-9400

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<div>----- X</div> <div><b>AMERICAN INSURANCE COMPANY</b> <b>a/s/o Mariah Carey and Sinclair C.S.</b> <b>Beecham</b></div> <div><b>Plaintiff,</b> <b>against</b></div> <div><b>CORN ASSOCIATES, LLC. THE</b> <b>FRANKLIN TOWER CONDOMINIUM,</b> <b>KATZ METAL FABRICATORS, INC., and</b> <b>SAMCO PLUMBING, INC.,</b> <b>Defendants.</b></div> <div>----- X</div>	<div><b>REQUEST TO ENTER DEFAULT</b> <b>AGAINST CORN ASSOCIATES, LLC</b> <b>PURSUANT TO FEDERAL RULE OF</b> <b>CIVIL PROCEDURE 55(a) AND LOCAL</b> <b>RULE 55.1</b></div> <div><b>Docket No.: 1:07 cv 08604</b></div>
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**AFFIDAVIT FOR ENTRY OF DEFAULT AGAINST CORN**  
**ASSOCIATES, LLC, AND CERTIFICATE OF DEFAULT ISSUED**  
**BY THE CLERK OF COURT**

STATE OF PENNSYLVANIA)

:ss.:

COUNTY OF PHILADELPHIA)

I, Mark E. Opalisky, Esquire, being duly sworn according to law, depose and say:

1. I am attorney for the plaintiff American Insurance Company and am authorized to make this affidavit on its behalf in the above-entitled action.
2. This case involves a subrogation claim for property damage arising out of a water leak on April 2, 2005 at a condominium located at 90 Franklin Street, New York, New York.
3. The water leak was the direct and proximate result of work performed by the defendants when the building was extensively renovated and converted to a condominium.
4. The water leak resulted in extensive property damage to two units containing the personal property and furnishings insured by American Insurance Company.

5. American Insurance reimbursed its policy holders, Mariah Carey and Sinclair Beecham, for their covered losses, and now seeks to recover its payments in this subrogation action.

6. The jurisdiction of this Court is proper pursuant to 28 U.S.C. §1332, as this action is between citizens of different states and the amount in controversy, exclusive of interest and cost, exceeds the sum of seventy-five thousand dollars (\$75,000.00). American Insurance Company is a corporation organized and existing under the laws of the State of California, and Corn Associates, LLC is a limited liability company organized and existing under the laws of the state of New York.

7. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §1391, as the renovation work, the water leak and resultant damages giving rise to the claims at issue occurred within the district. Defendant Corn Associates, LLC, having performed work on a building located in the district, is subject to personal jurisdiction within the district.

8. The original Complaint in this action was filed on October 4, 2007. A true and correct copy of the original Complaint is attached hereto as Exhibit "A".

9. The Summons and Complaint were properly served on Corn Associates, LLC on October 9, 2007. A true and correct copy of the Executed Summons dated October 15, 2007 is attached hereto as Exhibit "B".

10. The time within which Corn Associates, LLC could answer or otherwise move as to the Complaint expired on October 29, 2007.

11. Corn Associates, LLC has not filed an answer with the Court or otherwise moved.

12. The time for Defendant to answer or otherwise move has not been extended.

13. Plaintiff served the Second Amended Complaint upon the parties on March 25, 2008 and on March 26, 2008, Plaintiff filed it with the Court, a true and correct copy of the Second Amended Complaint is attached hereto as Exhibit "C".

14. Corn Associates, LLC has not filed an answer with the Court to the Second Amended Complaint or otherwise moved and the time for Defendant to answer or otherwise move has not been extended.. No attorney has entered his appearance on behalf of Corn Associates LLC in this matter.

15. Defendant Corn Associates LLC is a corporate entity and, therefore, is neither an infant, in the military nor an incompetent person.

16. I certify the statements made by me are true. I understand if the statements made by me are false, I am subject to punishment.

17. Attached as Exhibit "D" please find the Certificate of Default against Corn Associates, LLC signed by the Clerk of the Court.

Dated: June 6, 2008

COZEN O'CONNOR

By: \_\_\_\_\_/s  
Mark E. Opalisky, Esq.  
COZEN O'CONNOR  
45 Broadway, 16<sup>th</sup> Floor  
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<p>----- X</p> <p><b>AMERICAN INSURANCE COMPANY a/s/o Mariah Carey, and SINCLAIR C.S. BEECHAM</b></p> <p><b>Plaintiffs,</b> <b>against</b></p> <p><b>CORN ASSOCIATES, LLC. THE FRANKLIN TOWER CONDOMINIUM, KATZ METAL FABRICATORS, INC., and SAMCO PLUMBING, INC.,</b> <b>Defendants.</b></p> <p>----- X</p>	<p><b>CERTIFICATE OF SERVICE</b></p> <p><b>Docket No.: 1:07 cv 08604</b></p>
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I, Mark E. Opalisky, Esquire, hereby certify that on June 6, 2008, a true and correct copy of Plaintiff's Request to Enter Default pursuant to the Federal Rules of Civil Procedure 55(a) and Local Rule 55.1 against Corn Associates, LLC was mailed via United States mail, postage prepaid on the following parties:

*Daniel M. Schiavetta, Jr., Esq.*  
*Attorneys for Defendant, Katz Metal Fabricators Inc.*  
*Murphy & Higgins, LLP*  
*One Radisson Plaza, 9<sup>th</sup> Floor*  
*New Rochelle, New York 10801*

*Jared T. Greisman, Esq.*  
*White Fleischer & Fino LLP*  
*Attorneys for Defendant, The Franklin Tower Condominium*  
*61 Broadway, 18<sup>th</sup> Floor*  
*New York, New York 10006*

*SAMCO PLUMBING, INC.*  
*36-20 13<sup>th</sup> Street*  
*Long Island City, New York 11106*

\_\_\_\_\_/s  
Mark E. Opalisky, Esq.  
COZEN O'CONNOR  
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